

MINUTES
INDEPENDENCE CITY PLANNING COMMISSION
October 25, 2022

MEMBERS PRESENT

Cindy McClain, Chair
Virginia Ferguson*
Paul Michell
Butch Nesbitt
Heather Wiley
Laurie Dean Wiley

STAFF PRESENT

Rick Arroyo – Assistant Director
Stuart Borders – Senior Planner
Rich Wood – Assistant City Attorney

A meeting of the Independence City Planning Commission was held at 6:00 p.m. on October 25, 2022, in the Independence City Hall Council Chambers, 111 E. Maple Ave. The meeting was called to order.

CONSENT AGENDA

- 1. Planning Commission Minutes – October 11, 2022**
- 2. Case 22-320-04 – Final Plat – Cargo Largo Replat**

Commissioner Nesbitt requested Case 22-320-04 be pulled for separate consideration.

Motion

Commissioner Nesbitt made a motion to approve the Amended Consent Agenda, minus Case 22-320-04. Commissioner Ferguson seconded the motion. The motion passed with six affirmative votes.

Case 22-320-04 – Final Plat – Cargo Largo Replat

Commissioner Comments

Commissioner Nesbitt stated he has an issue with this plat because of the issues at 35th and Noland Road. He said he's concerned about the semi-truck traffic and wants to know the plans for that intersection before approving this plat.

Commissioner H. Wiley noted the Planning Commission already reviewed the Traffic Impact Study.

Commissioner Nesbitt said the intersection needs to be fixed before approving the plat. He suggested the plat be sent back to staff.

Rick Arroyo stated there is preemptive signaling to help prevent vehicles from getting stuck at 35th and Noland. He noted he believed the intersection issues were discussed in the traffic study but were considered outside the scope of the Cargo Largo project due to other businesses contributing to the traffic at the intersection. The bulk of the new traffic will utilize Weatherford and that intersection will be widened for truck traffic.

In response to Commission H. Wiley's question, Mr. Arroyo stated the final plat addresses the slight changes to the Weatherford Road design with the right-of-way.

Motion

Commissioner H. Wiley made a motion to approve Case 22-320-04. Commissioner Michell seconded the motion. The motion passed with five affirmative votes.

CASE WITHDRAWN PRIOR TO THE MEETING

Case 22-100-13 – Rezoning – 17007 E. US 40 Highway

PUBLIC HEARINGS

Case 22-100-18 – Rezoning – 9300 E. US 24 Highway

Staff Presentation

Stuart Borders presented the case. Mr. Borders presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses.

Applicant Comments

Jenny Belbeisli, 8325 W. 120th Terr, Overland Park, KS, stated they purchased the property in 2018 and they're looking to make improvements and updates to the building. She said they would like to create room to store products.

In response to Commissioner L. Wiley's question, Mr. Borders stated this is a corrective rezoning.

Public Comments

No public comments.

Commissioner Comments

Motion

Commissioner Nesbitt made a motion to approve Case 22-100-18 – Rezoning – 9300 E. US 24 Highway. Commissioner L. Wiley seconded the motion. The motion passed with six affirmative votes.

Case 22-810-02 – Preliminary Development Plan – approximately 4505 Little Blue Parkway

Staff Presentation

Stuart Borders presented the case. Mr. Borders presented the Commission with a vicinity map, noting the area and surrounding zoning. He presented the Commission with an aerial map indicating the project area and explained the surrounding land uses. Mr. Borders outlined the following conditions:

1. A new sidewalk needs to extend to the end of property/parcel line (Valley View Road)
2. The sidewalk needs to tie into existing sidewalk along Little Blue Parkway. Please move it closer to the public right of way line.
3. Independence Power & Light has no way to provide service currently due to the lack of transformer stock; shipment time for new inventory is indefinite.
4. Remove the southern drive entrance into the site.
5. On the South Elevation 2, provide a faux window or something here to break up the blank wall expanse.
6. All roof mounted equipment must be screened by a parapet equal to the height of the equipment.

7. On the final landscape plans, include a table listing required plantings along with the plantings shown on the plan.
8. The trash enclosure must be designed/constructed per City Code Section 14-503-08 and relocated to the rear of the site as much as possible.
9. This preliminary development plan has not been reviewed for final engineering design compliance. All development engineering must be designed in accordance with City of Independence standards and specifications prior to approval of the final development plan.

In response to Commissioner Nesbitt's question, Mr. Borders stated they would be responsible for putting sidewalks on their property. Commissioner Nesbitt questioned why a second entrance wouldn't be allowed. Mr. Borders stated there are safety concerns due to the proximity of the intersection.

Applicant Comments

Brad McKenzie, Sapp Design Architects, 11100 Main St, Kansas City, stated they would like to have a second drive entrance, but they understand the traffic engineer said it would not be possible. Mr. McKenzie said the lack of having a transformer is a big issue. He stated they won't be able to start construction until they get a transformer. Mr. McKenzie said they've updated the location of the trash enclosure to conform to staff's recommendations. He spoke about the screening of roof equipment. On condition number five, he's hoping staff will allow

In response to Commissioner Michell's question about the new location of the trash enclosure, Mr. McKenzie stated they have not had conversations with a trash company yet, but the library management will work with the trash company to ensure trash pickup and deliveries do not impede customer traffic.

Public Comments

No public comments.

Commissioner Comments

In response to Commissioner Nesbitt's question, Mr. Borders stated our traffic engineer looked at the plans and visited the site and determined having a second entrance was not possible due to its proximity to the intersection.

Motion

Commissioner Michell made a motion to approve Case 22-810-02 – Preliminary Development Plan – approximately 4505 Little Blue Parkway, with conditions as outlined by staff. Commissioner H. Wiley seconded the motion. The motion passed with six affirmative votes.

*Commissioner Ferguson left the meeting before the conclusion of the following case.

Case 22-175-02 – UDO Amendment #54 – Short-Term Rentals

Staff Presentation

Rick Arroyo presented the case. Mr. Arroyo provided background on the Short-Term Rental ordinance and outlined the proposed changes.

The STR regulations:

- created a separate and unique definition for short term rentals that is different from the existing bed and breakfast definition
- limited the number of guests and guest rooms in a short-term rental

- limited the number of days a short-term rental can rented
- required a safety inspection of the short-term rental
- required a minimum parking requirement for a short-term rental
- required trash collection for short term rentals
- required the management of short-term rentals
- created a public hearing application process for the review by the Planning Commission of short-term rentals
- outlined the enforcement and penalties on short term rentals that do not follow the rules
- required business license numbers to be posted on short term rental websites

In late 2019, staff again researched best practices from around the country. This research led to additional changes to the STR regulations in the UDO, which included:

- Limit the number of Short-Term Rentals a single owner can operate to no more than five (5).
- Limit the density of Short-Term Rentals to no more than one (1) per eight (8) structures on a block face.
- Require all Short-Term Rentals to obtain a Rental Ready inspection prior to their annual business license renewal, beginning July 1, 2020.

This amendment would make the following changes to the UDO:

1. Creates new Use Section for Short-Term Rentals. The current UDO has the regulations for both bed and breakfast and short-term rentals (STRs) in one use section (i.e., Section 14-420). The regulations for Bed and Breakfast will remain in Section 14-420 while a new Section 14-424 Short-term Rentals will be added. Section 14-424 will have all of the regulations pertaining to STRs.
2. Updated Use Tables. The residential and commercial use tables have been updated to reflect the new Section 14-424 Short-Term Rental.
3. Modified Short Term Rental use description. The current use category description for short-term rental contains requirements (e.g., occupancy limits, type of structure where STRs are allowed, etc.), which has led to confusion. Those requirements that were in the description have been moved to the new Section 14-424 Short Term Rental and a more concise and descriptive description has been provided.
4. Added Definitions. Added four (4) new definitions – short-term rental, short-term rental operator, single family dwelling, and duplex dwelling unit. Additionally, the current dwelling definition has been modified to clarify what does not classify as a dwelling. These definitions will provide clarity in the short-term rental application process.

Chairwoman McClain called for a break at 7:06 p.m. The meeting was called back to order at 7:08 p.m.

5. Added Section 14-424 Short-Term Rental. A summary of those changes is described below.
 - a. Added a purpose section.
 - b. The existing UDO regulations allow STRs in single family residential and duplexes and prohibits STRs in multi-family units. This is not changing but this section clarifies where short-term rentals are allowed.
 - c. Adds specifics on transient guest tax. It requires the short-term rental applicant to present evidence to the City that the City has a voluntary collection agreement in place with any web platform upon which the property will be listed for rental. In the event the City does not have such voluntary collection agreement in place, the property owner will be required to enter into a separate agreement with the City providing for the collection and remission of the taxes to the City.

- d. Adds the requirement that no short-term rental shall be proposed within 500 feet from the property line of another existing or proposed short-term rental.
- e. Requires a responsible agent for each short-term rental who must be on call 24 hours 7 days a week. Also requires that the contact information must be kept current.
- f. Prohibits events such as weddings, parties, banquets and other large gatherings from being held at STRs.
- g. Prohibits multiple bookings. A short-term rental can only be rented by 1 booking party.
- h. Prohibits the owner from living in the STR while it is being rented.
- i. Prohibits the STR operator from providing food and/or meals.
- j. Requires a minimum level of insurance.
- k. Clarifies that a STR cannot be transferred. If a STR is transferred, the new owner must seek approval of the STR.
- l. Requires the posting in a prominent location the Good Neighbor Guide. This guide is designed to educate Short-Term Rental (STR) guests on the importance of being a good neighbor and respecting the neighborhood in which you are staying. In addition, the short-term rental operator is required to post in a prominent location of the dwelling the maximum permitted occupancy of the short-term rental, evacuation plan, parking plan, trash disposal plan, the noise management plan, responsible agent name and contact information, the street address of the short-term rental and short-term rental license number.
- m. Requires a noise management plan that must include a continuous operation noise monitoring device(s) while the registered property is rented.
- n. Clarifies that STR parking is only allowed on concrete, asphalt, paving stones or other hard durable surface is allowed.
- o. Adds the requirement that a trash disposal plan is required to ensure that trash containers are not left outdoors in violation of City Code.
- p. Specifies what information is required to be submitted with the short-term rental application. Information to be submitted include: parking plan, floor plan, trash disposal and collection plan, fire escape plan, noise management plan and attestation that the owner is current on taxes, the owner has read and understand the short-term regulations of the UDO, the owner will not discriminate and comply with the Fair Housing Act, Civil Rights Act and American with Disabilities Act.
- q. Specifies that a short-term rental in a non-residential structure in a commercial district can be approved administratively provided it meets all UDO and applicable City Code requirements. Outlines an appeal process if the STR is not administratively approved.
- r. Adds a violation, penalty and enforcement provisions section.
- s. Adds a STR revocation process. The revocation process starts with the STR operator being cited for 2 or more offenses in a 3-month period, or provides false information on the application, or operates a STR that endangers the public health, safety or welfare, or does not pay transient guest tax, sales tax or property tax. The revocation process follows the same procedure used for granting a STR (i.e., a notice to surrounding property owners and public hearing before the Planning Commission). This also includes criteria for the Planning Commission to consider in the revocation. The Planning Commission makes a recommendation to the City Council on the revocation of STR.

In response to Commissioner Nesbitt's question, Mr. Arroyo stated Business Licensing or Neighborhood Services would enforce the code, depending on the complaint received. Mr. Arroyo said there would be a hearing with the owner based on the complaint and tickets may be written depending on the outcome. Mr. Arroyo stated the Good Neighbor Guide is something that would be posted by the owner at the property for all visitors to see. The owner will be required to provide a copy of this document to the City.

In response to Commissioner Michell's question, Mr. Arroyo stated those that have already been approved for a Short-Term Rental will be required to abide by these new requirements with their Business License renewal. Commissioner Michell noted the wording is not the same in the Good Neighbor Guide and the proposed City Code. Mr. Arroyo stated these would be updated to make the wording match.

Commissioner L. Wiley stated she is glad to see separate code sections for Bed and Breakfast and Short-Term Rentals. In response to Commissioner L. Wiley's question, Mr. Arroyo stated if there was a police matter and a revocation had to come back to the Planning Commission, it would happen at the next available meeting date. He said Business Licensing staff would essentially tell them they had to cease operation until the Planning Commission and City Council could render a decision. Mr. Arroyo stated staff generally finds out about illegal operations from the public. He said staff encourages the public to report unlicensed business to the City so staff can follow up with the owner.

Chairwoman McClain stated she believes this proposed code change addresses most of the issues that have come up. She questioned if there's a way to incentivize business owners to get permitted. Chairwoman McClain suggested if the City could add a webpage showing those Short-Term Rentals that are licensed. Mr. Arroyo stated he would check to see if we could add licensed Short-Term Rentals on the City website. Mr. Arroyo noted this code is still evolving with new digital platforms allowing different types of rentals.

In response to Commissioner L. Wiley's question, Mr. Arroyo stated there is going to be a moratorium resolution before the City Council to allow the City Council and staff to put these possible new procedures in place.

Public Comments

Leigh Phillips, 1423 S. Maywood Avenue, stated she is pleased to see that the Planning Commission is looking at changes to Short-Term Rentals and addressing safety concerns. She stated she is hopeful this is not the final revision. Ms. Phillips said she hopes this amendment will not be approved as it stands.

Commissioner Comments

In response to Commissioner H. Wiley's question, Mr. Arroyo stated the owner limit was set at five and staff generally will research to see what other cities are putting in their ordinances. Mr. Arroyo said the problem is that anyone can create an LLC and they can create as many as they like. He said there is nothing to stop someone from acquiring five Short-Term Rental licenses with one LLC and then creating another LLC to serve as a different owner.

Commissioner Nesbitt stated he believes this is a good amendment that addresses a lot of the concerns that have come up.

Commissioner H. Wiley said she is in favor of this amendment, as it will give the City more authority to enforce Short-Term Rentals. She stated with the influx of Short-Term Rentals,

they're starting to decline in popularity. Commissioner H. Wiley said she's concerned about out-of-town investors purchasing properties right before the World Cup and then abandoning them after the event.

Commissioner Michell noted there's no way to predict all the problems that may arise when creating new or amending ordinances. He said he believes the City does a good job addressing the new issues that come up.

Commissioner L. Wiley thanked Ms. Phillips for coming to speak.

Chairwoman McClain stated this amendment does address a lot of the safety issues that were brought to the Commission's attention.

Motion

Commissioner Nesbitt made a motion to approve Case 22-175-02 – UDO Amendment #54 – Short-Term Rentals, with a note that the code should mention the current Good Neighbor Guide and that parties are not allowed, to match the wording of the City Code. Commissioner H. Wiley seconded the motion. The motion passed with five affirmative votes.

ROUNDTABLE

Commissioner H. Wiley noted there is a large campaign sign at 23rd and Noland and requested staff investigate it, to see if it meets City Code. Mr. Borders stated he would notify the Code Compliance Division.

ADJOURNMENT

The meeting was adjourned at 7:42 p.m.